

Meeting of 2005-11-22 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 22, 2005 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Greg Buckley, Assistant City Manager
 John Vincent, City Attorney
 Traci Hushbeck, City Clerk
 COL Sonny Uberti, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by the Pastor Richard Mayer, St. John s Lutheran Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Rex Givens, Ward Two
 Janice Drewry, Ward Three
 Keith Jackson, Ward Four

Robert Shanklin, Ward Five
Jeffrey Patton, Ward Six
 Stanley Haywood, Ward Seven
 Randy Warren, Ward Eight

ABSENT: None

PRESENTATION OF EMPLOYEE OF MONTH TO TRUDY KASTNER, SENIOR SECRETARY IN THE HUMAN RESOURCES DEPARTMENT FOR THE MONTH OF NOVEMBER.

Jim Scholes, Human Resources Director, presented Trudy Kastner as employee of the month for November. He stated she was also chosen by KLAU as Administrative and Professional Employee of the Year. He relies on Trudy who is a great team player. She is a great sounding board for him and is also a great voice for other employees. She is involved in many volunteer organizations outside of the office. Mayor Purcell thanked Trudy for all the good work she does and presented a certificate of honor, two days of nonchargeable leave, script money from Chamber merchants and a Mayor s Do What s Right coin.

Trudy thanked all her family and co-workers who were in attendance.

Mayor Purcell reminded everyone to check their smoke detectors. He stated if anyone cannot afford one, to please contact the Lawton Fire Department at 581-3299.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETING OF OCTOBER 25, 2005.

MOVED by Warren, SECOND by Givens, to approve the Minutes of October 25, 2005. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

CONSENT AGENDA: John Vincent requested item 5 be considered separately. Jackson requested #16 and Patton requested item #11 be considered separately.

MOVED by Warren, SECOND by Drewry, to approve the Consent Agenda items as recommended with the exception of items 5, 11, and 16. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claims are recommended for denial: Southwestern Bell Telephone L.P. in the amount of \$2,551.19, Southwestern Bell Telephone L.P. in the amount of \$126.40. Exhibits: Legal Opinions/Recommendations.
2. Consider approving the sale of surplus property described as Lots 1 thru 11 and Lots 32 thru 42 of Block 3 of

Plainview Addition to St. John s Missionary Baptist Church for the amount of Ten Thousand Five Hundred and One Dollars (\$10,501.00), and authorize the Mayor and City Clerk to execute the Quit Claim Deed. Exhibits: The notice of public auction and Quit Claim Deed are on file in the City Clerk s office.

3. Consider approving the sale of surplus property described as a 1 acre tract of land located in part of the Northwest Quarter of Section 31, Township 4 North, Range 12 West to Robert M. Davis for the amount of One Thousand Twenty Six Dollars (\$1,026.00), and authorize the Mayor and City Clerk to execute the Quit Claim Deed. Exhibits: The notice of public auction and Quit Claim Deed are on file in the City Clerk s office.

4. Consider approving contract with Theatreworks USA for school performances of *Curious George* on Friday, March 3, 2006. Exhibits: Contract is on file in the City Clerk s office.

5. Consider approving a request to enter into a memorandum of understanding with the Oklahoma Department of Public Safety and the City of Lawton authorizing them to place 800 MHz radio equipment on existing radio communications tower. Exhibits: Copy of Memorandum of Understanding.

Vincent stated that Department of Public Safety has requested a small change in the fourth line of the last paragraph. He distributed a revised contract with that change. He stated it isolates the additional structure to the east parking lot east of the annex.

MOVED by Givens, SECOND by Patton, to approve the MOU between the City of Lawton and the Oklahoma Department of Public Safety and authorize the Mayor and the City Clerk to execute the contract application. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

6. Consider approving the record plat for Corrales Addition, Part 1. Exhibits: Plat Map.

7. Consider a request from Habitat for Humanity to waive the water and sewer impact fees for structures to be constructed upon 1211 SW Texas and 1214 SW Wisconsin as provided for in Sections 22-2-2-222 C. and 22-3-14-391 E. of the Lawton City Code. Exhibits: Letter of request and Extracts of code.

8. Consider accepting the Flower Mound Road (Gore to Rogers Lane) Water and Sewer Lines Relocation Project #2004-9 as constructed by Davenport Construction and placing the Maintenance Bond into effect. Exhibits: None.

9. Consider approving plans and specifications for the safety related Arterial Street Repair Project #2005-3 and authorizing staff to advertise for bids. Exhibits: None.

10. Consider approving plans and specifications for the 2000 CIP Waterline Replacement Project #2005-15 and authorizing staff to advertise for bids. Exhibits: Location Map.

11. Consider authorizing staff to prepare plans and specifications for the NW Hunter Avenue and NW 72nd Street Reconstruction Project #2005-16. Exhibits: Location Map.

Patton questioned if there was a time line when this will be started.

Mike Johnson, Assistant Director of Engineering, stated the work will begin in approximately ninety days.

Givens questioned why this area is being reconstructed.

Warren stated it looks as though there has been some water damage.

Mayor Purcell stated after the road was built there was some flooding.

MOVED by Patton, SECOND by Warren, to authorize staff to prepare plans and specifications for the NW Hunter Avenue and NW 72nd Street Reconstruction Project #2005-16 and approve the funding from 2005 CIP funds. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

12. Consider awarding (CL06-017) Electro Fusion Polyethylene Fittings for DR17 Pipe contract to Secor of Houston, Texas. Exhibits: Abstract of bids and department recommendation.

13. Consider awarding (CL06-019) Front-end Loader to CL Boyd Company, Inc., of Oklahoma City, Oklahoma. Exhibits: Abstract of bids and department recommendation.

14. Consider awarding (CL06-020) Four-Wheel Drive Backhoe to OCT Equipment, L.L.C., of Tulsa, OK. Exhibits: Abstract of bids and department recommendation.

15. Consider approving the following contract extensions: A. (CL04-006) Rental of Cleaning Supplies with Cintas, of Lawton, OK and B. (CL05-020) Utility Easement Abatement with Booker Tree Service, of Lawton, OK. Exhibits: None.

16. Consider approving appointments to boards and commissions. Exhibits: None

Jackson stated not long after the swearing in ceremony back in May, he went to the Mayor and asked to be appointed to the BRAC Committee. The Mayor indicated that there is only one Council spot available on the committee and Councilmember Patton had that seat. That seat was coming up for reappointment and if Mr. Patton wished to give it up he would have no problem appointing him to that position. Councilmember Patton chose to stay in that appointed seat. He stated an opportunity came to increase the number of Council members by one and most of the Council realized that he still had a great interest in being appointed to that committee. He even spoke to several members of the Council seeking support to increase the committee by one. He requested that the City Council reconsider the nomination being recommended by the Mayor. He stated he was told that because Ms. Drewry was a member of the Strategic Planning Committee, the Mayor felt it was important that she be a member of this committee. He feels that since she is a member of the Strategic Planning Committee, and as a result is involved in a lot of the activities, he does not feel it is important.

Mayor Purcell stated this has become a planning type committee that represents people throughout the community. When a group visited from the Department of Defense, they were glad to see that we did not have an over abundance of one section of the community represented. There were people throughout the community. The group recommended that two additional members be added to represent Indian lands and the Mayor of Geronimo. Council member Jackson was then successful in his request to add another member of the Council. He respects that Council member Jackson wishes to be on the committee, but he appoints people who he feels will fill the jobs that need to get done. He felt that since Ms. Drewry does chair the Strategic Planning Committee, that is part of the planning that committee will concentrate on in order to secure funding.

Jackson stated that if the Mayor felt this was important, why did he not ask for the creation of the additional council spot sooner. He stated he feels this is not fair.

Warren stated that Ms. Drewry has proven herself to be an excellent representative for not only her area, but for the rest of the city. He personally does not have a problem with her appointment, he felt she would do a good job. He stated when Mr. Jackson brought the idea forward to expand the membership, there was no talk of Mr. Jackson wanting to be that representative.

Shanklin stated that Ms. Drewry can do the job, but he does not want her put on the committee because of her allegiance to certain members of the staff. He stated he did not know if that was true, but that would be his only concern. He stated she would do an excellent job.

MOVED by Warren, SECOND by Shanklin, to approve appointments of the persons to boards and commissions. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Shanklin. NAY: Jackson. MOTION CARRIED.

17. Consider approval of payroll for the periods of October 24 November 6, 2005. Exhibits: None.

BUSINESS ITEMS:

18. Receive a report from the United Way of Lawton-Fort Sill on the Comanche County Needs Assessment Report.

Eileen Jensen, Director of the United Way of Lawton-Fort Sill, thanked the Mayor and Council for their participation in supporting a community needs assessment. She distributed a copy of the report. She stated this report is just Lawton s survey results. The book contains all of Comanche County as well as every small city in the county in terms of what they feel are major issues and problems that they face. She congratulated the City Council on choosing to address the issue of dilapidated buildings in the community. It does affect the well being of the families they serve. She encouraged members to use the information from the survey to help them when expending CDBG money. She stated that some issues that were funded with CDBG monies in the past are fairing well and were not included in the survey as a problem or issue.

Mayor Purcell stated this is the first time that public transportation has not been included as a needs assessment. In the past it has always been the number one or two issues.

Ms. Jensen stated that after hours transportation with LATS did appear on one part of the survey. She stated there

is still a need for transportation after 6 pm. She stated the survey is available in an electronic version and it will be available on the United Way website.

Mayor Purcell thanked the United Way and everyone in the community who participated in the survey. It was a major effort with a lot of people spending a great amount of hours putting it together.

19. Hold public hearings and adopt resolutions declaring the structures at: 1610 SW Oklahoma Avenue, 804 SW Manning Avenue, 650 SW Grand Avenue, 209 NW Bell Avenue, 207 NW Bell Avenue, and 614 NW Ferris Avenue to be dilapidated public nuisances, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to commence legal action in district court to abate each nuisance. Further authorize Neighborhood Services to solicit bids to raze and remove each dilapidated structure, if necessary. Exhibits: Resolutions No 05-____; No 05-____; No 05-____; No 05-____; No 05-____; No 05-____; Summary documents with supporting photos. Reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

1610 SW Oklahoma: Tony Griffith, Neighborhood Services Supervisor, presented photographs of the property. There have been no utilities since June 2002. The property is uninhabitable and the roof is caving in. The structure is a health and safety risk to the community. All three structures on the property are dilapidated.

Warren asked if the city will impound the car on the property.

Haywood stated they have been trying to get rid of this house for a long time and people in the community have called and turned it in.

Vincent stated the City Council can declare the vehicle a public nuisance as well as the house on a different agenda item. He stated it probably meets the definition of a junk vehicle.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Patton, to approve **Resolution No. 05-186** and declare the structure at 1610 SW Oklahoma to be dilapidated and a public nuisance. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

804 SW Manning: Griffith presented photographs of the property. There have been no utilities since May 2001. The structure is vacant and has become a storage facility for garbage. There are holes in the walls and the property looks like a salvage yard.

Jackson questioned if staff has had verbal contact with the owners.

Griffith stated they posted a notice on the structure and sent out registered mail. No one has responded. They were given a twenty day notice. He stated he does not have a return receipt from the registered mail.

Shanklin questioned if staff went inside.

Griffith stated it was packed with trash and staff did not go inside.

Shanklin questioned if staff was allowed to go inside.

Griffith stated if the building is unsecured staff may go inside.

PUBLIC HEARING OPENED.

Louis Rayl, Rayl Finance at 509 C Avenue, stated he had a mortgage on the property and he will be foreclosing on the property and would like some time to clean it up. He stated he would like to protect his interest.

Vincent questioned if he had filed a foreclosure action.

Mr. Rayl stated he did not know if his attorney has filed the action yet.

Vincent stated he is looking at anywhere from six to nine months.

Givens questioned when the note became default.

Mr. Rayl stated it became default last month.

Jackson stated he understood the predicament Mr. Rayl is in, but this property is a hazard to the neighborhood.

Mr. Rayl requested some time to step in and clean it up.

Shanklin questioned if they had to bring the electrical up to code both inside and out.

Vincent stated they would need to bring the electrical and plumbing up to code and the property has to become totally inhabitable.

Mr. Rayl stated he intended to clean up the property and sell it.

Shanklin stated he feels that the Council has went sideways and south on the dilapidated structures. They are not all on the same path as to what program the property owner has to adhere to. He stated he is really upset over this.

Warren stated there is nothing to preclude Mr. Rayl from getting a building or demolition permit. He questioned if the applicant has to be the owner of the house to get the permit.

Buckley stated the property owner must take action on the property.

Jackson questioned if this property could even be fixed up enough to be habitable.

Griffith stated the property needs to be torn down.

Givens questioned if the property is torn down, does the city have priority over the mortgage holder.

Vincent stated under current statute, the lien is co-existent with the advalorem taxes, so it would take priority over a security interest with the mortgage holder.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Warren, to approve **Resolution No. 05-187** and declare the structure at 804 SW Manning to be dilapidated and a public nuisance. AYE: Jackson, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. ABSENT: Shanklin. MOTION CARRIED.

650 SW Grand: Griffith presented photographs of the property. The property is vacant and there is no record of the property ever having utilities. He has had a request from the titleholder to have the property declared dilapidated for the privilege of the reduced tipping fees.

PUBLIC HEARING OPENED.

Louis Rayl, Rayl Finance, stated he also has a mortgage on this property. He stated he did not understand why he was not granted some time on the other property and this property.

Patton questioned if Mr. Rayl has seen the mobile home. He stated he is not sure that Mr. Rayl could get any money out of the home.

Mr. Rayl stated he would like the opportunity to do something.

Mayor Purcell stated that the City Council sees these properties at almost every meeting and some of these properties have been in this condition for years. People come with good intentions to clean up the property and it just doesn't happen and they have to start the process over again. Meanwhile the neighbors are screaming to get rid of these properties. The Council hears from both sides.

Mr. Rayl stated that if he does not do the work, then the Council can tear it down.

Mayor Purcell stated that would then extend the problem another six to nine months.

Shanklin stated Mr. Rayl has thirty days to get a building permit and then there is recourse at the court house which will give him six to nine months.

Marion Newton, property owner, stated in 1970 her dad had a viable mobile home park on that property. She stated she has contacted the Neighborhood Services Division and she voluntarily agreed to tear the structure down. She is in the process of receiving bids on the demolition.

PUBLIC HEARING CLOSED.

MOVED by Haywood, SECOND by Drewry, to approve **Resolution No. 05-188** and declare the structure at 650 SW Grand to be dilapidated and a public nuisance. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

209 NW Bell: Griffith presented photographs of the property. The roof of the structure is caving in and the property is vacant. The vacant structure provides a haven for criminal behavior. There have been no utilities since May 2005. It presents a health and safety risk to the community.

Shanklin questioned if staff made contact with the property owner.

Griffith stated staff has posted notice on the property and mailed out certified letters, but they have had no response from the property owner.

Shanklin stated there are six or seven more structures in that area that need to be cleaned up.

Griffith stated that staff is working their way west.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Patton, to approve **Resolution No. 05-189** and declare the structure at 209 NW Bell to be dilapidated and a public nuisance. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

207 NW Bell: Griffith presented photographs of the property. He stated the structure is adjacent to 209 NW Bell. The structure is vacant and the exterior walls have holes and the roof is caving in. There have been no utilities since October 2003. It presents a health and safety risk to the community.

Shanklin questioned if the structure was boarded up.

Griffith stated the structure is secure. He has sent staff out to resecure the building.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Warren, to approve **Resolution No. 05-190** and declare the structure at 207 NW Bell to be dilapidated and a public nuisance. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

614 NW Ferris: Griffith presented photographs of the property. The structure is vacant and the foundation is defective. The roof has a large opening on the east end. The garage is unsecured. There have been no utilities since May 2005. It presents a health and safety risk to the community. The owner has requested the demolition to take advantage of the reduced tipping fees.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Shanklin, SECOND by Haywood, to approve **Resolution No. 05-191** and declare the structure at 614 NW Ferris Grand to be dilapidated and a public nuisance. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

20. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Residential/Low Density to Commercial and an ordinance changing the zoning from Temporary A-1 (General Agricultural District) to C-2 (Planned Neighborhood Shopping Center District) zoning classification located at 602 SW 82nd Street. Exhibits: Resolution No. 05-__, Ordinance No. 05-__, Location Map, Site Plan, Applications and CPC Minutes.

Richard Rogalski, Planning Director, stated this request is for a 9.456 acre tract of land located on the east side of SW 82nd Street, south of the railroad tracks. The application was signed by the applicant, Mr. James Gardner, and the property owner, Mr. Ben Horton.

The zoning of the surrounding area is R-3 (Multiple-Family Dwelling District) to the north and Temporary A-1 to the south, east, and west. The land use of the surrounding area is railroad and single-family residential to the north and agriculture to the south, east, and west. The current land use is agriculture. The proposed use is miniwarehouses.

On October 27, 2005, the City Planning Commission held a public hearing on this request. During the public hearing, one person spoke in favor of the request and one person spoke against the request. The CPC, by a vote of 6 - 0, recommended approval of the request.

PUBLIC HEARING OPENED.

James Gardner, 702 NW 82nd Street, stated he requested the zoning along with Mr. Horton. He stated he was in attendance in case the Council had any questions.

Shoemate questioned what type of structures will be on the property.

Mr. Gardner stated this will be a mini storage facility made out of metal.

PUBLIC HEARING CLOSED.

MOVED by Patton, SECOND by Haywood, to adopt **Resolution No. 05-192** and **Ordinance No. 05-89**, waive the reading of the ordinance, read the title only. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-89

An Ordinance changing the zoning classification from the existing classification of Temporary A-1 (General Agricultural District) to C-2 (Planned Neighborhood Shopping Center District) zoning classification on the tract of land located on SW 82nd Street which is herein after more particularly described in Section One (1) hereof; authorizing changes to be made upon the official zoning map in accordance with this ordinance.

21. Hold a public hearing and consider adopting Ordinance No. 05-__ amending Division 1, Article 9, Chapter 18, Lawton City Code, 1995, amending the regulations for signs and declaring an emergency. Exhibits: Proposed Ordinance and Matrix.

Givens stated that this committee was appointed over a year ago. The members of the committee included Councilmembers Givens and Patton, two members of the Chamber of Commerce, two members of the City Planning Commission, two members from the sign industry and staff. The committee met over nine times. They developed a sign matrix which the Council has seen. Even though the matrix is not part of the ordinance, it does set out what is in the ordinance and can be handed out to the public. Essentially, the ordinance addresses concern about the size of billboards, which restricts the size of future billboards in the city limits to 288 square feet. He stated the committee did grandfather those existing signs. He was in favor of getting rid of these signs over a period of time, but the committee as a whole did not agree. The ordinance also addresses the size and number of signs that any business can have. For the most part this is based on street frontage or the size of the building.

This will allow any business to have plenty of signage to let you know where they are. He stated this does not prohibit the mom and pop stores from making their own signs. They will have to get permits if there are structural concerns or if there are electrical concerns. An electrical contractor will be required to do the work. Reports given by economic development specialists have indicated there needs to be some kind of sign ordinance. He stated the next item on the agenda is the ordinance which will deal with enforcement.

Shanklin questioned why the current sign ordinance has not been enforced.

Buckley stated it is not an issue of the lack of enforcement, but an issue with the lack of manpower to be able to cover the entire city.

Shanklin questioned what division oversees the enforcement.

Buckley stated Neighborhood Services. They have tried to step up enforcement and be more aggressive with regards to regulation and enforcement of the policy. He stated that is evident throughout town.

Shanklin questioned if all seven inspectors are able to enforce the sign ordinance.

Buckley stated all seven will be able to enforce the ordinance.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Shanklin questioned why the ordinance would be declared an emergency.

Givens stated this issue has been going on for over a year.

MOVED by Givens, SECOND by Patton, to adopt Ordinance No. 05-90, waive the reading of the ordinance, read the title only and declare an emergency and insert November 22, 2005 in Section 931 as the reference date for the enforcement of the recognition of this ordinance. AYE: Givens, Drewry, Patton, Warren, Purcell. NAY: Jackson, Shanklin, Haywood, Shoemate. MOTION CARRIED. EMERGENCY FAILED.

An ordinance pertaining to planning and zoning amending Division 1 , Article 9, Chapter 18, Lawton City Code, 1995, by amending the regulations for signs, providing for severability, repealer, and declaring an emergency.

22. Consider adopting Ordinance No. 05-__ amending Sections 15-1-101, 15-1-102, 15-1-104, 15-1-111, Chapter 15, Lawton City Code, 1995, by defining the term sign, including abandoned and dilapidated signs as nuisances, specifying persons responsible for a given sign and providing for severability and declaring an emergency.
Exhibits: Ordinance No. 05-__.

Deborah Jones, Senior Planner, stated this is a companion ordinance that would give the power to the City Council if they chose to declare a public nuisance on a dilapidated or abandoned sign.

Vincent stated the procedure would be very similar with a dilapidated sign as it is with a dilapidated building in that it would be brought before the City Council with a resolution of dilapidation declared and they would go to District Court for enforcement.

Givens stated this ordinance is really more important than the sign ordinance because at this point they really have no teeth to take care of a lot of signs around town that are falling apart. Sometimes the signs are owned by a business that is no longer there. This ordinance will allow that after a certain period of time it will be presumed that the sign belongs to the owner of the property and they will have to get rid of the sign themselves.

Shanklin questioned if those signs will be grandfathered in.

Givens stated that dilapidated signs are not grandfathered in, there are a lot of signs in town where all that is left is the skeleton.

Vincent stated that this ordinance addresses abandoned signs. If there is a sign pole with a sign face advertising a business that is no longer in existence, that sign can be brought to Council for declaration of dilapidation or abandonment and ask the court to order the property owner to remove.

Shanklin had questions regarding Section 15-1-111 which stated that all limbs of trees which project over a public sidewalk, less than eight (8) feet above the surface thereof or less than fourteen (14) feet above the surface of a public street. He questioned if this meant that residents had to go out and take care of those limbs.

Vincent stated that is the existing code. The City Council passed a policy on the streets that limbs overhanging the street less than 14 feet, the city would come in and abate that and bring them up to 14 feet. That was by Council direction. The code was never changed.

Haywood stated if the city comes in and cuts the tree up to 14 feet, is that on the city or the citizen.

Vincent stated that right now the city is doing it and it is not on the citizens. If it is over a sidewalk it can be as low as 8 feet, if it is over the street then the city goes in, based on the policy that Council passed which changed it from 10 feet to 14 feet, Council instructed staff to cut them down.

Shanklin stated that a resident was fined in the 600 block of Euclid. Will she get her money back?

Vincent stated he could look at the case.

Shanklin stated that if the Council passes something, let s not ignore it.

Givens stated that this really has nothing to do with this issue, but the comments were appreciated.

MOVED by Patton, SECOND by Givens, to adopt **Ordinance No. 05-91**, waive the reading of the ordinance, read the title only and declare an emergency. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

An ordinance amending Sections 15-1-101,15-1-102,15-1-104 and 15-1-111, Article 15-1, Chapter 15, Lawton City Code, 1995, by defining the term sign, including abandoned and dilapidated signs as nuisances, specifying persons responsible for a given sign, providing for severability and declaring an emergency.

23. Consider approving the amendment of Sections 19A-1-1-101 through 19A-1-3-134, Chapter 19A, Lawton City Code, 1995, pertaining to stormwater drainage/detention regulations and amending Section 21-7-701, and

repealing Sections 21-7-702 through 21-7-708 Chapter 21, Lawton City Code, 1995, pertaining to the drainage regulations of subdivisions and Resolution No. 05-___ amending Appendix A, Schedule of Fees and Charges.

Exhibits: Draft Ordinance, Resolution No. 05-___, Appendix A, Administrative Policy and Memorandum to Greg Buckley, Assistant City Manager regarding the five issues, on which an agreement was not reached, dated November 4, 2005.

Buckley stated the ordinance was initiated through the Mayor and requested that an ordinance be put together with regards to stormwater and drainage detention. Staff put a draft ordinance together and submitted that ordinance to the City Planning Commission, who requested staff meet with the development community to work out issues and receive input. He stated staff met with developers three or four times and worked through their issues to the best of their ability. There were still some issues on the table when the ordinance went back to the CPC, which they identified and made some requests for changes. The Homebuilders Association provided a letter which outlines five issues that are still outstanding which have been addressed. The fee which was still an issue was brought down to \$1,724.00 per acre.

Patton questioned how they arrived at \$1,724.00.

Buckley stated there was a specific breakdown with regards to the manpower, equipment use and the mowing on our current contract.

Shanklin questioned what other communities staff looked at.

Rogalski stated staff focused on other communities such as Norman, Edmond and Oklahoma City. A majority of the part of the ordinance was in our current code. They blended the current code with some ideas from other ordinances. The detention part is all new.

Jackson stated the federal government ordered the EPA, which ordered DEQ, to come install this stormwater drainage maintenance program in communities. In the State of Oklahoma, there are 44 designated communities that must conform with this stormwater drainage program. At the present time there are 12 communities in the state that have their license. Everyone is in the application process to acquire their license. He would like for everyone to understand that the costs involved are an unfunded mandate by the federal government and it will cost our home buyers, home builders and developers massive amounts of money to redirect water on their property, to redirect water to detention reservoirs, and will ultimately be paid by the home buyer. He felt that these five issues are not unreasonable. The first is to establish an advisory board, which was recommended by the CPC, the second is to establish an effective date, which he would recommend be February 1, 2006.

Givens questioned why Mr. Jackson would suggest February 1st as opposed to immediately.

Jackson stated the builders and developers have requested that date which will give them time to get ready for this proposal. He stated he does need some explanation on the issue of the court system being involved in the administration fines. He does have concerns about setting an easement of 25 feet. He feels this needs to vary dependent on the issue that is involved. He would like that to be negotiated with the builders and developers at the time the plat is being approved. He does feel that the maintenance fee of \$1,724 is a fair fee.

Givens stated it says in the background that developers and builders request the date of February 1st because of current subdivision plans. He questioned how many current subdivision plans are there in the process right now.

Jones stated fourteen or fifteen.

Jackson stated people have spent a lot of money preparing their plat plans and proposals. This will cause unjust problems.

Givens questioned if that meant current plans on hand.

Jackson stated any plans that would be submitted up to February 1st.

Vincent stated there are two dates in the code, one is the effective dated which would go into effect thirty days from tonight, unless the Council establishes an effective date. He stated they could make the effective date thirty days from tonight, but the date in Section 19A-1-1-102 which establishes the exemption from this ordinance, could be February 1, 2006.

Jackson stated that he is suggesting that those plats submitted up to February 1st would not be affected.

Mayor Purcell stated the stormwater drainage committee has been looking at this issue for a year and a half.

Drewry questioned why the fees were \$3,000 but were then reduced to \$1,724. How did they establish the \$3,000 and how did they get it down to \$1,724?

Rogalski stated the initial estimate was based on data that was obtained from the Parks and Recreation Department and from Public Works Streets and Grounds on their costs to maintain an acre. After the CPC meeting, staff was directed to reduce the cost, and they went to Neighborhood Services and looked at the mowing contract with Booker Tree Service. That contract did not reflect some of the data that was provided by Parks and Recreation. He did not feel that the \$3,000 was bad, but after looking at the mowing contract, he does feel that the \$1,724 is a better number. They took out a lot of the long term maintenance that was originally calculated in.

Shoemate stated his fear is that people will move to the country because the builder will have to add on to the cost of the home. He questioned if there are any figures from other towns.

Rogalski stated the fee from Edmond is \$5,000 an acre. He stated that even Steve Barnes, representing the Builder s Association, felt that \$1,724 was a fair number.

Drewry stated she is concerned about the effective date. There is a problem now with stormwater.

Jackson stated there are a lot of developers who are investing money in plats, engineering and surveying costs and they need that time.

Shanklin stated he is concerned about Section 19A-1-1-105 dealing with warning and disclaimer of liability. He questioned why was it in here if we are afraid about being sued. What is the disclaimer for?

Vincent stated that disclaimer is in there to say, Mr. Developer, we are not your engineer. They will have to engineer this and bring it to us. All we are doing is certifying it complies with the code. Whether it works or not is their problem.

Mayor Purcell stated he needs to clarify the motion. There is a CPC recommendation, some of which is already in the ordinance, and there is also a letter from the Lawton Homebuilder s Association. He suggested they cover those five issues in that letter to clarify Mr. Jackson s motion.

Jackson stated he is suggesting the maintenance fee be established at \$1,724 per acre, which is already incorporated in the Ordinance. He agreed that the advisory board should be established, which is already included.

Mayor Purcell stated the letter now changes the advisory board. The letter now says that will be an appeals board. There are already two appeals boards in place. Are we creating an appeals board or an advisory board, as recommended by the CPC.

Jackson stated he believes the current appeal boards can deal with these issues, but he would like to establish an advisory board.

Mayor Purcell suggested keeping what is in the ordinance, which is to keep the advisory board, but not make it an appeals board.

Jackson stated that is correct. He stated he does not have a problem with maintaining the administrative fee, and not take it through the court system.

Mayor Purcell stated that is how it is in the ordinance, so that would not change.

Jackson stated he does agree with the recommendation of the CPC regarding the width of drainage easements. He feels there should be a little leeway in regards to the 25 being firm.

Warren questioned if that could be an issue that could be appealed.

Patton stated that staff may be saying it has to be 25 .

Rogalski stated that 25 is in the policy, so it is not in the ordinance. He stated the advisory board will recommend to the City Manager and City Council policies, which is the administrative policy, to establish minimally acceptable standards to be utilized in the design of stormwater drainage system improvements. The appeal of policies will come before the board.

Vincent stated the draft policy will be presented to the board for consideration. So there would be no change needed in the ordinance.

Mayor Purcell stated that basically everything is as recommended by the CPC except for the effective date.

He strongly believes that the established date needs to be February 1st.

Mayor Purcell stated that Mr. Jackson is making a motion to approve everything as written in the ordinance except change the effective date to read February 1, 2006.

Shanklin stated he wanted to know more about this appeals board. Where will appeals go?

Vincent stated the appeal process in this ordinance is taken out of the industrial pretreatment code ordinance that has been in effect for about six years and has worked well. Administrative appeals go to the City Manager and if there is a further appeal, it will go to District Court. He stated they do not use the Municipal Court because this is a criminal code.

Shanklin questioned if the \$1,724 will be put in escrow.

Jackson stated this is a massive expense to builders and developers. He stated it seems that the Council is continually throwing roadblocks in their way. Development is moving out in the county. There is a 160 acre development taking place around Cache because they don't have to put up with this nonsense.

Shanklin questioned if the builders and developers are going to have to put up this cash.

Warren stated that issue has already been agreed upon.

MOVED by Jackson, SECOND by Shanklin, to adopt **Resolution 05-193** and **Ordinance No. 05-92** as written, waive the reading of the ordinance, read the title only and establish an effective date of February 1, 2006.

SUBSTITUTE MOTION by Givens to adopt **Ordinance No. 05-92** as written, waive the reading of the ordinance, read the title only and establish an effective date of November 22, 2005, with the exception of those plats that are on file as of 5:00 p.m. on November 22, 2005.

Motion failed due to a lack of a second.

Vincent stated in response to Mr. Shanklin's question about the fee, the money will be placed in a fund that will be administered by the city and will cover the cost of maintenance of the facility for seven years.

Shanklin questioned if they paid it up front.

Vincent stated yes.

SUBSTITUTE MOTION by Warren, SECOND by Drewry, to adopt **Resolution 05-193** and **Ordinance No. 05-92** as written and, waive the reading of the ordinance, read the title only and establish an effective date of January 1, 2006. AYE: Warren, Givens, Drewry. NAY: Patton, Haywood, Shoemate, Jackson, Shanklin. MOTION FAILED.

VOTE ON ORIGINAL MOTION: AYE: Jackson, Shanklin, Patton, Haywood, Shoemate, Givens, Drewry. NAY: Warren. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-92

An ordinance pertaining to stormwater detention amending Sections 19A-1-1-101 through 19A-1-1-105, Division 19A-1-1, Article 19A-1, Chapter 19A, Lawton City Code, 1995, creating Sections 19A-1-2-121 through 19A-1-2-130, Division 19A-1-2, Article 19A-1, Chapter 19A, Lawton City Code, 1995, and creating Sections 19A-1-3-131 through 19A-1-3-134, Division 19A-1-3, Article 19A-1, Chapter 19A, Lawton City Code, 1995, and pertaining to subdivisions amending section 21-7-701, Article 21-7, Chapter 21, Lawton City Code, 1995, and repealing Sections 21-7-702 through 21-7-708, Article 21-7, Chapter 21, Lawton City Code, 1995, providing for severability, codification, repealer and establishing an effective date.

24. Consider adopting an ordinance, creating Section 17-1-6-168, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 1995, by creating Administrative Leave, which depending upon the situation may be either without or with pay; and amending Section 17-1-7-171, Division 17-1-7, Article 17-1, Chapter 17, Lawton City Code, 1995, providing for severability, codification, and declaring an emergency. Exhibits: Ordinance No. 05-____.

Jim Scholes, Human Resources Director, stated this ordinance clarifies some language as well as an addition. In Section 171 some language is moved to Section 168 where it actually belongs under administrative leave. There is also some proposed language change from suspension without pay to administrative leave without pay, so they will

not create an instance where it can be said that discipline has already been rendered. The addition of administrative leave with pay is for other instances where discipline may result, but not criminal charges. This is a desired way to remove employees from the place of work while the investigation is taking place.

Givens questioned if these changes went before the Employee Advisory Committee.

Vincent stated that this ordinance did not go before the EAC. This is basically a clean up and adding the administrative leave.

Givens stated he feels it would be a good policy to take employee issues to the EAC first.

Scholes stated nothing is taken out of this ordinance and he felt the EAC would have no objections.

Givens stated it would still be a good idea to hear what the EAC has to say on these issues.

Scholes stated he attends all the EAC meetings and that would not be a problem to discuss issues with the members.

MOVED by Shoemate, SECOND by Haywood, to adopt **Ordinance No. 05-93**, waive the reading of the ordinance, read the title only and declare an emergency. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-93

An ordinance pertaining to personnel policies and procedures creating Section 17-1-6-168, Division 17-1-6, Article 17-1, Chapter 17, Lawton City Code, 1995, by creating administrative leave, which depending upon the situation may be either without or with pay; and amending Section 17-1-7-171, Division 17-1-7, Article 17-1, Chapter 17, Lawton City Code, 1995, providing for severability, codification, and declaring an emergency.

25. Consider approving an ordinance pertaining to personnel policies and procedures amending Section 17-1-4-141, Division 17-1-4, Article 17-1, Chapter 17, Lawton City Code, 1995, by clarifying the language regarding former employees rehired after July 1, 2003, providing for severability and declaring an emergency. Exhibits: Ordinance No. 05-____.

Scholes stated this is a simple language clean up. Section 141 was created to do away with longevity pay as of July 2003. This ordinance adds further clarification that also includes former employees rehired after that date.

Buckley stated this just clarifies the intent when the original ordinance was modified to eliminate longevity for the general employees. He stated the policy used to be that if you left and came back you could buy back those years. This helps identify and clarify that rehire issue.

MOVED by Warren, SECOND by Drewry, to adopt **Ordinance No. 05-94**, waive the reading of the ordinance, read the title only and declare an emergency. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-94

An ordinance pertaining to personnel policies and procedures amending Section 17-1-4-141, Division 17-1-4, Article 17-1, Chapter 17, Lawton City Code, 1995, by clarifying the language regarding former employees rehired after July 1, 2003, providing for severability and declaring an emergency

26. Consider directing staff to develop architectural design standards in zoned areas abutting residential areas. Exhibits: None

Givens stated he is concerned that in transitional areas next to residential areas there are or will be these cheap metal buildings. He felt these should not be allowed and should establish some kind of architectural standards in those particular areas. He would like to direct staff to look into the issue and also look into some kind of landscaping requirements for businesses coming into town.

Patton stated he thought there was already something in place that required landscaping.

Givens stated there are requirements for professional office buildings, but it is very small.

Warren stated there is also an issue that if someone has a commercial property that backs up to residential, it is required that they put up a 6' screening fence. It is written that they must screen the commercial activity. If the building itself is sitting at the last use of the property, that individual should be able to use the back of that building as part of the screening. Otherwise we are requiring screening to make the lives of the people in the

residential areas better. It does not make any sense to only screen 6 of the building. He suggested the Council combine this issue with Mr. Givens concerns about the architectural designs and have two purposes served. This would not require commercial owners to build a senseless fence, but would give the resident something decent to look at from their backyard.

Givens stated he is not trying to prohibit metal buildings, there are certain places they are appropriate. He is only concerned with transitional areas abutting residential areas. This will not address the new four story hotel that is looking over a nice residential area. Residents need to be protected from builders and developers who don't care about the remaining residential areas.

Shanklin questioned if there are any other cities with these regulations. He suggested Mr. Givens research and bring back a draft to look at.

Jackson stated he will continue to look out for the small business owners and he feels this could be setting a dangerous precedent to that individual who wants to build a small business. Due to previous building codes and ordinances passed, it is hard enough to build in this town.

Drewry stated she keeps thinking about what has happened to all the residents who live behind Lowe's and the horrific situation they are faced with. They should be looking into something that is going to better protect the residents of this town.

MOVED by Givens, SECOND by Warren, to direct staff to develop architectural design standards in zoned areas abutting residential areas, develop landscaping requirements with respect to new businesses in those areas and look into consideration of screening requirements between those new businesses and the residential areas. AYE: Drewry, Patton, Warren, Shoemate, Givens. NAY: Jackson, Shanklin, Haywood. MOTION CARRIED.

27. Consider receiving a report on the City's financial condition for the 1st Quarter of fiscal year 2005-2006, and provide direction to staff. Exhibits: None

Rick Endicott, Finance Director, distributed the Financial Report for October. He stated as of October 31st, the city is at 33.33% of the year. They have collected approximately 33% of the budgeted sales tax, 29% of the franchise tax, 38% of police fines and 39% of all others for a total of 34.08% for general fund revenue which tells him they are right on target for the budgeted revenue. He stated the water revenue is at 39.12% of budgeted revenue, with sewer at 33.54% and refuse at 32.95% for a total of 36.17%. Total of general and enterprise fund is at 35%. Considering everything that has happened in the first four months of the fiscal year with fuel prices, we are still doing very well.

Mayor Purcell questioned that if the city sales tax is at 32.93%, how come the capital outlay is not approximately the same.

Endicott stated it has to do with the budgeted amount.

Givens stated he finds it very interesting that the city has hardly collected any sewer and water impact fees.

Endicott stated the revenue amount is right on target with the budgeted amount. He stated he is very pleased with expenditures. The enterprise fund is up a small amount over where we are at in the year, but the total is right on target.

Patton questioned which account would show the increase in fuel costs. Is there any particular account to watch?

Endicott stated it really does not show up in any one particular place and it is hard to distinguish. He stated he does intend to provide the City Council with a report that will show what is budgeted for fuel and what has been expended. It has been around 35% which is better than he expected. The last report he had the city was paying between \$1.87 and \$1.92 for unleaded. They had budgeted around \$1.85. They have met with departments and encouraged them to conserve fuel.

Warren questioned why zoning and plat fees are so far off.

Endicott stated he can find out and get back with him.

Mayor Purcell stated that since the City Council is in place, there is no reason to have to wait to start discussing next year's budget. He stated they may want to start the budget process a little earlier. He will discuss this with the City Manager.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

COL. Uberti thanked those who have attended the welcome home and deployment ceremonies. They have an Air Force detachment departing after Thanksgiving. He stated there will be troops returning on November 25th, 26th, and 27th.

Drewry stated the Boulevard of Lights parade was very successful. She stated there were more people attending than ever before. She commended David Vanhoozer for all his hard work. She stated for a donation of \$5 you can receive a chance to win a four wheeler and she does have tickets for sale.

Shanklin stated he received six calls regarding the trash that was left over from the parade. He stated next year there needs to be trash cans available.

Mayor Purcell stated that someone had everything cleaned up by Monday afternoon.

Shanklin stated that Ken Hawkins, Ken s Pharmacy, was very happy with the staff during the construction of his new building. He stated public works employees did a great job working on a water line on Fort Sill Boulevard.

Patton thanked the residents of Ward 6 and appreciated their patience during his first term. He looks forward to serving constituents for another three years.

Warren stated he is looking forward to serving the residents of Ward 8 for another term.

Mayor Purcell congratulated Patton, Haywood and Warren who will be serving another three year term. He thanked the citizens of Lawton for contributing to the Lawton Food Bank. He stated that Comanche County has requested the joint meeting be moved to December 1st. He asked the City Council if they had any objection.

Warren stated that if they move the meeting to December 1st, that this date be written in stone and the meeting with happen.

Jackson stated he and Warren have been working on the 911 consolidation issue since May and he would like to make sure this meeting is restricted and not a public hearing.

Mayor Purcell stated it will be an open meeting, but they do not have to allow anyone to speak.

Everyone agreed to move the meeting to December 1st at 6:00 p.m. at Old Town Hall.

Vincent stated he will be on military leave from November 28th December 9th. Frank Jensen will be the Acting City Attorney.

The Mayor and Council convened in executive session at 8:50 p.m. and reconvened in regular, open session at 8:54 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

28. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the lawsuit, in the Comanche County District Court, Michelle P. Hill vs. Steven Schulte, City of Lawton and United Services Automobile Association, Case No. CJ-2005-184; and if necessary, take appropriate action in open session.

Exhibits: None

Vincent read the title of item 28 shown above. He said the Council did receive a briefing on the case.

MOVED by Jackson, SECOND by Warren, to authorize the City Attorney to settle legal action in Comanche County District Court, Michelle P. Hill vs. Steven Schulte, City of Lawton et al. Case No. CJ-2005-184 for the total sum of \$4,000 and direct the City Attorney to execute the necessary documentation. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

ADJOURNMENT

There being no further business to consider, the meeting adjourned at 8:55 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

ADJOURNMENT